

Legislative Forecast for the 114th Congress

Updated October 5, 2015

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Producers: Katharine Conlon, Alexander Perry,
Christine Yan

Director: Afzal Bari

Congress Faces Fights over Trade, Debt Ceiling, Appropriations, and Highway Trust Fund in Coming Months

Prospective Items on Legislative Agenda in 114th Congress

Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Immigration: Congress attempted to tie funding for DHS to repeal of President Obama's actions on immigration, but a filibuster in the Senate led to a clean funding bill	Medicare: Congress passed a surprising bipartisan long-term fix for Medicare payment rates and CHIP funding		International Trade: Congress voted to grant the president Trade Promotion Authority to facilitate negotiations of TPP and TTIP trade agreements Export-Import Bank: The bank's charter expired and Congress will make a decision this fall PATRIOT Act: The three key provisions expired, the USA FREEDOM Act is likely to replace it	Highway Trust Fund: Expired and a 3-month patch was enacted as Congress works towards a longer term deal		Appropriations: A short-term continuing resolution passed, funding the government at FY2015 levels through December 11, 2015 without language defunding Planned Parenthood. Iranian Nuclear Deal: Senate Democrats blocked a Republican resolution to reject the deal	Iranian Nuclear Deal: The date for Adoption Day will be around Oct 18 Tax Reform: Movement on comprehensive tax reform remains unlikely in a Republican Congress, but corporate tax reform is possible Highway Trust Fund: Lawmakers may pass another temporary extension of the bill before funding for some programs run out on Oct 29 International Trade: An agreement was reached on TPP on the 5 th	Debt Ceiling: A stronger-than-expected tax season means extraordinary measures to stay under the debt ceiling will likely hold until November	Appropriations: Congress will likely pass an omnibus appropriations package before the short-term spending bill expires on the 11 th

Action Possible, Timing Unknown

No Child Left Behind: GOP Senators want to push for less federal involvement in school performance evaluation and move more responsibility to states

Online Sales Tax: Not a high priority, but lobbying efforts from states and small businesses are pushing the GOP to allow for collection of sales taxes for online purchases; multiple bills have been introduced with differing mechanisms to address the issue

International Trade: The TPP agreement will be introduced in Congress within the next few months, where it will face up-or-down ratification votes under the rules of TPA



Affordable Care Act

Updated: October 5, 2015

Timeline of Key Recent Federal Actions on the Affordable Care Act

2012

NFIB v. Sebelius

The Supreme Court decided the constitutionality of the Affordable Care Act's individual mandate, deciding that penalties imposed are a constitutional application of Congress's taxing and spending power; however, the law's provision stripping all Medicaid funding from states if they did not opt-in to the Medicaid expansion was ruled unconstitutionally coercive.

2013

"Continuing to Implement the ACA in a Careful, Thoughtful Manner"

The Treasury Department issued a memo delaying the employer mandate by one year, leading to criticism from Congress and an eventual lawsuit by the House of Representatives.

Mar 2015

Supreme Court Oral Arguments in King v. Burwell

A statutory interpretation case before the Court challenged the IRS's ability to provide subsidies for individuals receiving health care via federal exchanges; oral arguments left the case's outcome uncertain.

May 2015

FY2016 Budget Resolution

The joint budget resolution passed by both houses of Congress sets forth reconciliation provisions which will give the Senate the ability to write appropriations legislation repealing the Affordable Care Act via a simple majority vote.

June 2015

King v. Burwell Decision

The Supreme Court ruled to uphold federal subsidies for all eligible Americans under the Affordable Care Act. The practical implications of the decision are significant because it allows the administration to move forward with full implementation and administration of the ACA without the threat of legal challenges to the basic structure or operation of the law.

Potential Actions in 114th Congress

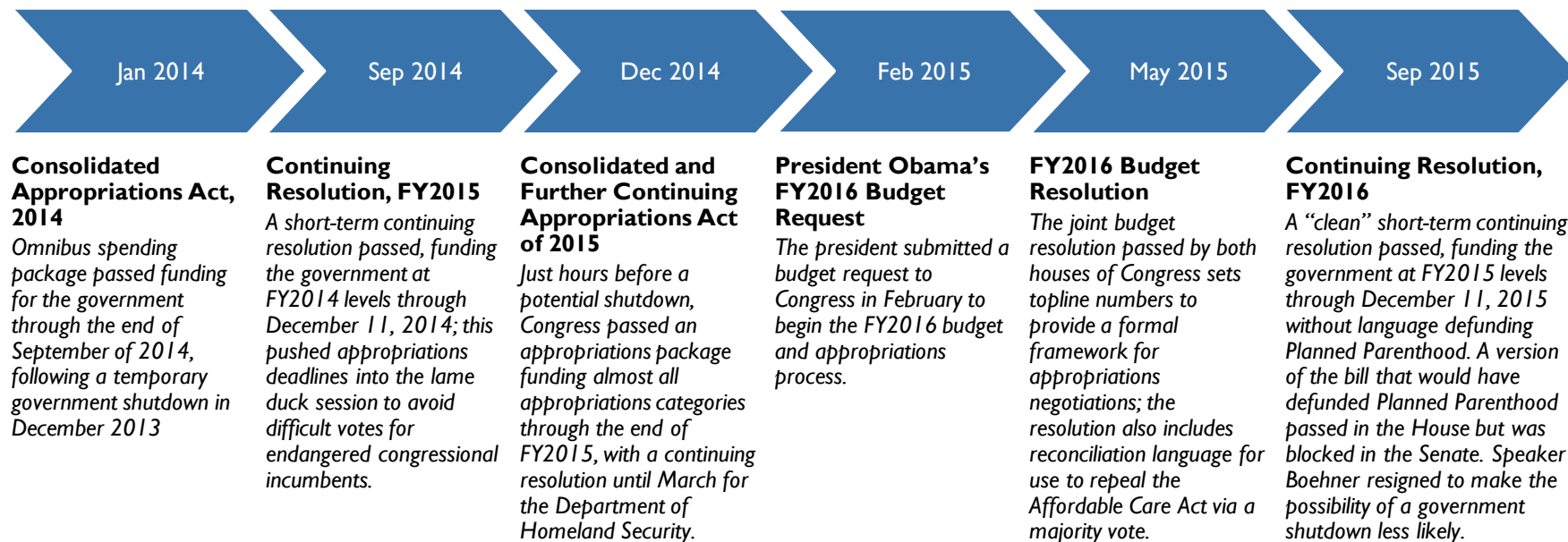
- The joint budget resolution includes language allowing for the repeal of the Affordable Care Act via reconciliation (only needing 51 votes for Senate passage without possibility of a filibuster); it is possible that both houses will send a key appropriations bill to President Obama with a rider attached repealing (and potentially replacing) the law.
- It is almost impossible that the president would sign a bill repealing his signature legislative achievement; however, smaller reforms, such as changing the definition of a full-time worker or repealing the medical device tax have bipartisan support.
- While the *King v. Burwell* ruling does not safeguard the ACA from additional legal attacks, it further embeds Congress's intent to improve, not hurt insurance marketplaces with the ACA, thus making similar court litigation unlikely in the future.
- Though a complete repeal of the ACA is unlikely, the issue may resurface during the 2016 presidential campaign season.



Appropriations

Updated October 5, 2015

Timeline of Key Recent Federal Actions on Appropriations



Potential Actions in 114th Congress

- Although 6 out of 12 appropriations bills have passed the House, Senate Democrats have blocked all spending bills from entering the Senate floor until caps on domestic spending are raised.
- Due to the stalled bills, the House and Senate passed a continuing resolution at the end of FY 2015, funding the government through December 11; Congress will likely pass an omnibus appropriations package as the new deadline approaches.
- If the appropriations package includes repeal of the Affordable Care Act (which can be passed through reconciliation via a simple majority vote in the Senate after the passage of the joint budget resolution), President Obama may veto the package, forcing Congress to renegotiate close to a shutdown deadline.



Debt Ceiling

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Timeline of Key Recent Federal Actions on the Debt Ceiling

2011

Budget Control Act of 2011

The BCA was designed to avoid a potential shutdown due to a failure to raise the debt limit in 2011; the act delegated authority to a 'supercommittee' to find an agreement on deficit reduction; however, no agreement was met, and so automatic penalty 'sequestration cuts' were put into effect.

Feb 2013

No Budget, No Pay Act of 2013

A bill which temporarily suspended the debt limit until May 28, 2013 and put Congressional pay on hold until a budget resolution could be passed.

Oct. 16, 2013

Continuing Appropriations Act, 2014

A continuing resolution passed in fiscal year 2014, which funded the government and suspended the debt limit until February 2015 to give lawmakers more time to negotiate a compromise proposal.

Feb 2015

Temporary Debt Limit Extension Act

Both houses of Congress passed a debt ceiling extension, suspending the ceiling until March 15, 2015.

Mar 2015

Debt Limit Reinstated

The suspension of the debt ceiling was lifted in March; the Treasury is currently taking extraordinary measures to keep the government funded.

Potential Actions in 114th Congress

- The Treasury Department will likely exhaust extraordinary measures around November; with Republican control of Congress, the attachment of riders for key Republican legislative priorities may go along with any debt limit hike, including lifting of defense sequestration cuts and ACA reform.
- With Speaker Boehner resigning at the end of October, it's possible he could push for increasing the debt limit with bipartisan support before he leaves, although this would likely anger conservatives on the far right and create tensions in the GOP.



Export-Import (Ex-Im) Bank

Updated: October 5, 2015

Timeline of Key Recent Federal Actions on the Export-Import Bank

2007

Consolidated Appropriations Act, 2008

Appropriations bill passed for FY2008 gave the Ex-Im bank the ability to use funds it collects to pay for the costs of its appropriations, and allows the Bank to hold \$50 million in excess receipts to put towards the following year's appropriation expenses; the bank has since been self-sufficient, but still guarantees loans with the full faith and credit of the U.S. government.

2012

Export-Import Bank Reauthorization Act of 2012

Extended the Bank's charter for 2 years, until September 30, 2014, and codified reporting and business plan requirements for the bank.

July 2014

Export-Import Bank Reauthorization Act of 2014

A bill, introduced by Sen. Joe Manchin (D-WV), to directly extend the Bank's charter through 2019; the bill failed to get a vote in the Senate.

Sep 2014

Continuing Appropriations Resolution, 2015

Included in a short-term continuing resolution extending the Bank's charter through June 30, 2015.

July 2015

Export-Import Bank Charter Expires

Congress let the bank's charter expire on June 30. The bank continues to complete loans that are in process and collect outstanding loans, but it cannot issue any new insurance, loans, or guarantees.

Potential Actions in 114th Congress

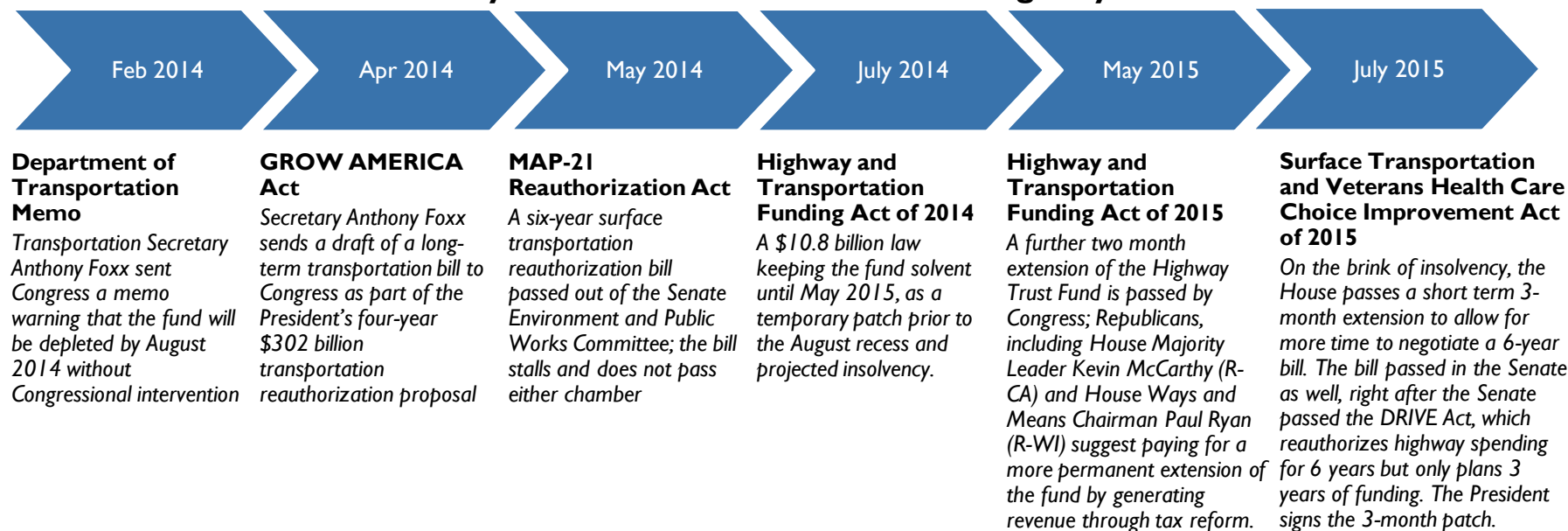
- Congress's next chance to renew the Ex-Im Bank authorization comes as lawmakers are deliberating a number of issues, including spending bills, a long-term transportation infrastructure bill, as well as the extension of the nation's spending and borrowing authorities. Reauthorization of the Ex-Im Bank will likely be closely linked to one of these critical issues.
- Strong opposition from conservatives has prevented GOP leaders from bringing legislation to the floor to authorize the Ex-Im bank, although more than 30 Republicans have signed onto a discharge petition, which is a procedural maneuver to sidestep the committee process, that would force a vote on reauthorizing the bank.
- Speaker Boehner, who will resign from Congress on October 30, is a supporter of the Ex-Im Bank and has expressed a willingness to work across party lines to achieve progress on key issues such as Ex-Im reauthorization. Current House Majority Leader Kevin McCarthy strongly opposes the bank, potentially complicating the bank's path to reauthorization.



Highway Trust Fund

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Timeline of Key Recent Federal Actions on the Highway Trust Fund



Potential Actions in 114th Congress

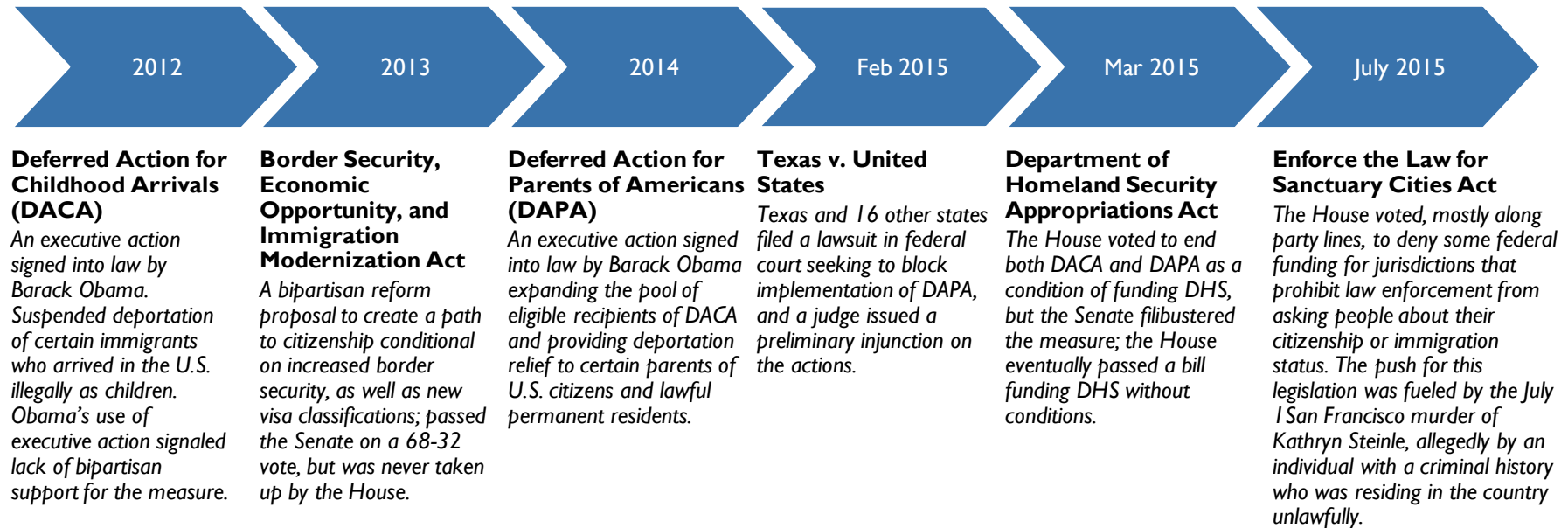
- **Next steps:** While there might be a sufficient balance to maintain the solvency of the Fund through the third quarter of FY 2016, many of the programs funded through Highway Trust Fund are only authorized through October 29, 2015. New obligations cannot be started until the Highway Trust Fund is authorized before October 29th. This could mean that lawmakers pass another temporary extension of the bill instead of deciding on a multiyear transportation bill.
- GOP leadership wants to provide more permanent revenue for the Highway Trust Fund by attaching tax reform proposals to the bill
- It is possible that tax reform proposals, such as a tax repatriation holiday, could help fund a more permanent extension



Immigration

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on Immigration



Potential Actions in 114th Congress

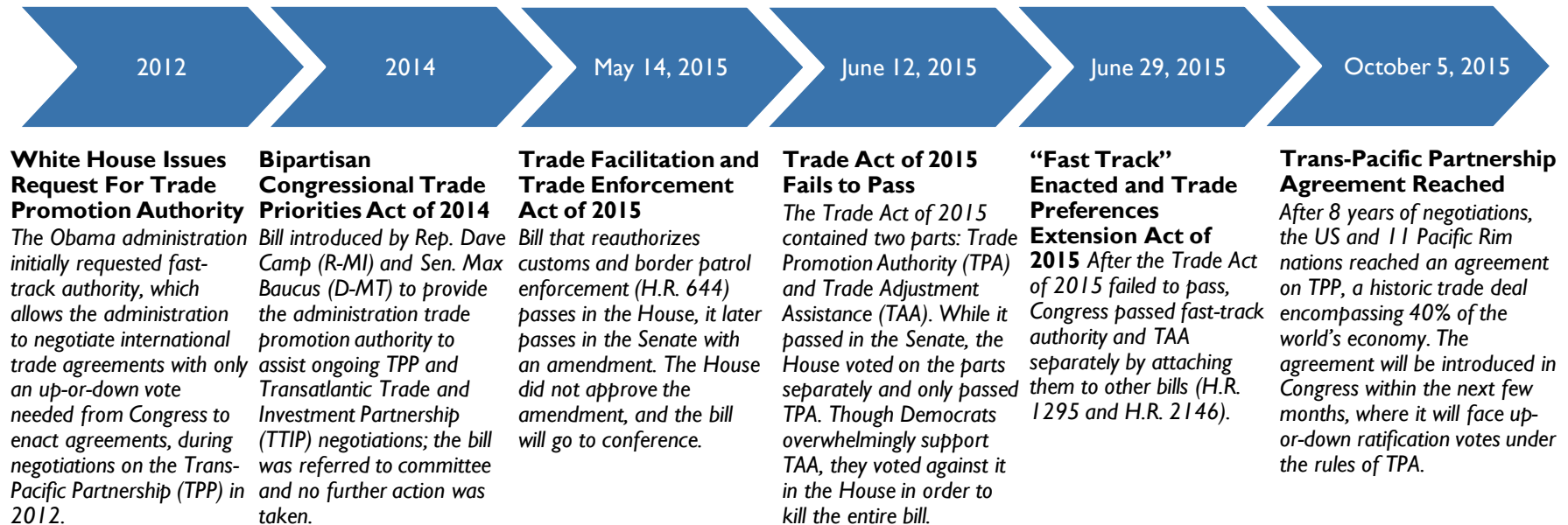
- While the Republicans muted criticism after a federal court put a stay on the immigration action in February, if the actions are ultimately upheld, immigration hawks will likely again attach a provision or rider to appropriations items to block the actions from being enacted
- It is unclear what action the Senate will take in response to the issue of sanctuary cities, although Sen. Charles E. Grassley (R-IA) introduced Kate's Law, which would impose a mandatory five-year prison sentence on undocumented immigrants who are deported and then return to the United States
- The White House threatened to veto such legislation and prefers Congress act on a comprehensive immigration reform package



International Trade

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Timeline of Key Recent Federal Actions on International Trade



Potential Actions in 114th Congress

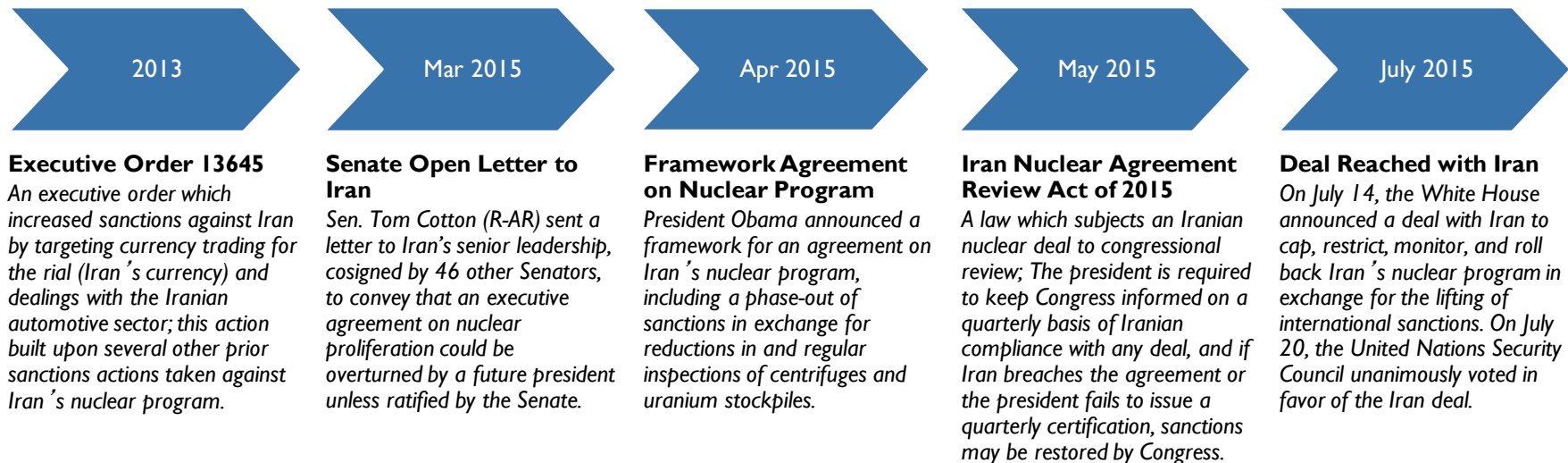
- President Obama’s Trade Promotion Authority makes it more likely that the Trans-Pacific Partnership will be supported by a majority vote in both chambers; however, the deal will likely face opposition from labor unions, conservatives, and others. It will be difficult to predict the deal’s fate in Congress until the full 30 chapters of text is made available to the public. (See also: [Timeline of Requirements for Trade Agreements under TPA 2015](#))
- The Senate has appointed conferees for the customs reauthorization: Sens. Hatch (R-UT), Wyden (D-OR), Thune (R-SD), Isakson (R-GA), Schumer (D-NY), and Stabenow (D-MI). The House has not voted on a motion to conference.



Iranian Nuclear Negotiations

Updated: October 5, 2015

Timeline of Key Recent Federal Actions on Iranian Nuclear Negotiations



Potential Actions in 114th Congress

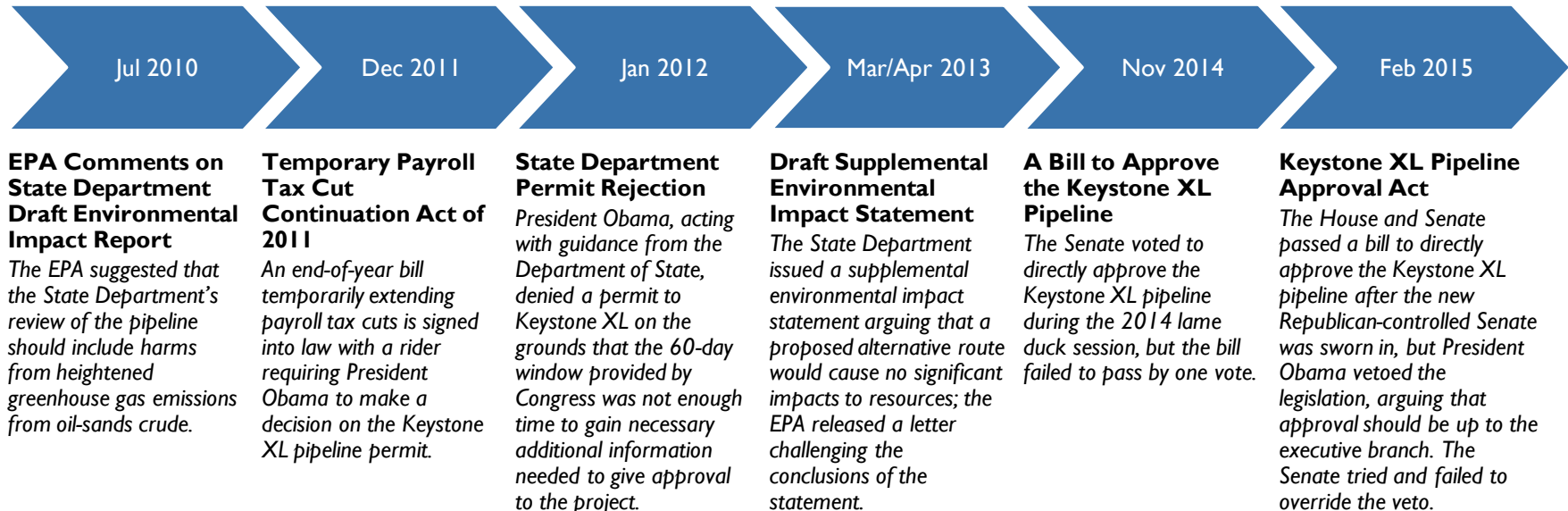
- The deal was formally introduced to Congress on July 20, 2015. Following a 60 day review period, Senate Democrats blocked a Republican resolution to reject the deal, thus ensuring that the deal will take effect without a Presidential veto.
- The deal will officially go into effect on Adoption Day, which will be around October 18 according to a Senior State Department Official. This marks the day, prior to issuing sanctions relief, that Iran must begin to adapt its nuclear program to comply with the terms of the deal.
- Implementation Day, which is currently an unknown date likely to be in early 2016, will be when the IAEA verifies whether Iran has complied with certain terms of the deal and when the US, EU and UN will conditionally terminate a host of Iranian sanctions.



Keystone XL

Updated October 5, 2015

Timeline of Key Recent Federal Actions on the Keystone XL Pipeline



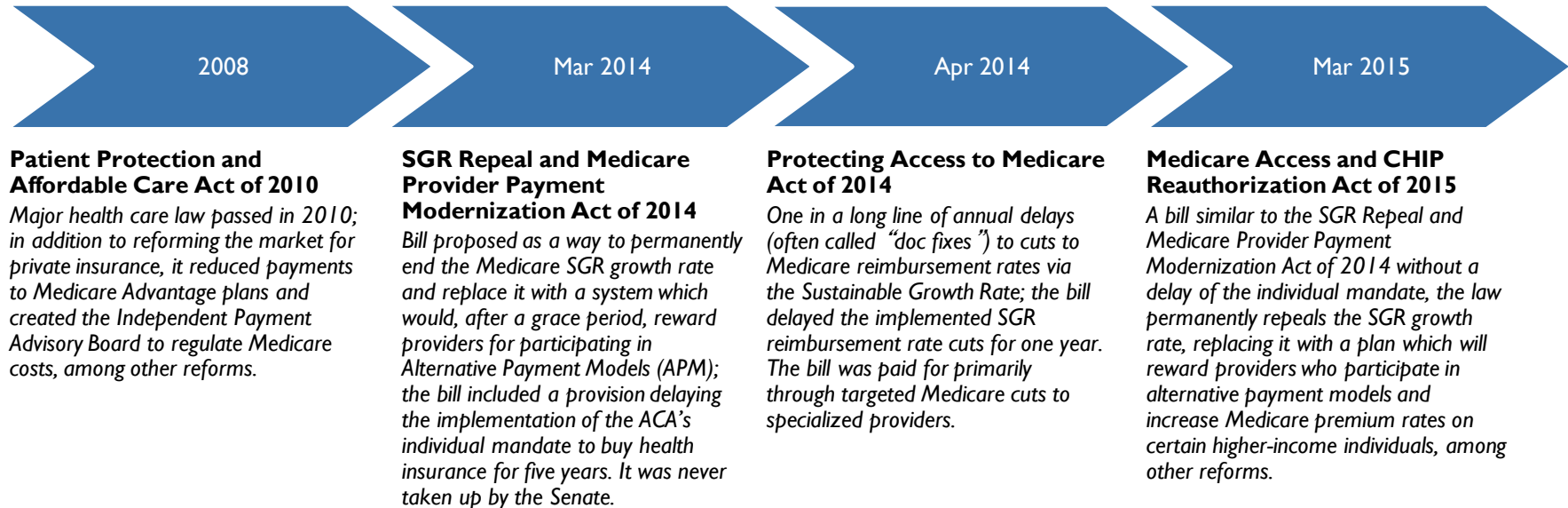
Potential Actions in 114th Congress

- The veto (and failed override) of the Keystone XL Pipeline Approval Act likely means no further action will be taken to pass legislation with a focal point of approving the pipeline by Congress in 2015; approval or denial of the project may come through administrative review
- Republicans have threatened, post-veto, to attach approval of the pipeline as a rider to must-pass appropriations legislation in order to force the president's hand on approving the pipeline project
- As of fall 2015, the State Department is still considering the project

See where candidates stand on the Keystone XL:
[Republican Presidential Candidates Part 1](#), [2](#), or [3](#)
[Democratic Presidential Candidates](#)

Medicare

Timeline of Key Recent Federal Actions on Medicare



Potential Actions in 114th Congress

- Further changes to Medicare are unlikely after unexpected passage of the Medicare Access and CHIP Reauthorization Act, which reformed Medicare and ended the SGR; however, the joint budget resolution passed in May calls for the cost of that law to be fully offset, increasing the likelihood of further reforms
- Rep. Sam Graves (R-MO) introduced the Medicaid Audit Improvement Act of 2015 in late April, which would replace Recovery Audit Contractor contingency payments, put more oversight on auditors whose audits are frequently overturned on appeal, and eliminate the one-year filing limit on Medicare Part B claims; the legislation has bipartisan co-sponsors, but appears to have stagnated in the House



No Child Left Behind

Updated July 31, 2015

Timeline of Key Recent Federal Actions on No Child Left Behind

2007

No Child Left Behind Act 'Expires'

No Child Left Behind was nominally set to expire on September 30, 2007, with a goal of rewriting and reauthorizing the bill. The law remained in-effect due to a provision that the law would continue in its original form if Congress didn't act after the 'expiration date.' The original expiration date made the initial bill appear cheaper in CBO scoring.

2011

Obama Administration Begins Waiver Program

Without a clear path towards replacement or revision of the law, and with the law's original 2014 deadline for proficiency in reading and math looming, the Obama Administration offered to waive the proficiency deadline and other requirements for states which overhaul low-performing schools and enact more stringent teacher evaluation systems.

July 8, 2015

Student Success Act

The House passed a NCLB replacement bill which would eliminate federal mandates for educational standards and poor performing schools, allow schools and parents to opt out of standardized testing, and change the funding formula to have money follow individual low-income students rather than stay at schools with the most low-income students. The bill passed with no Democratic support.

July 16, 2015

Every Child Achieves Act of 2015

The Senate passed a bipartisan bill put together by Sens. Lamar Alexander (R-TN) and Patty Murray (D-WA), which would maintain annual standardized tests and funding for low-income schools while reducing the Education Department's oversight and regulatory authority over state programs designed to improve educational outcomes for low-income and minority students.

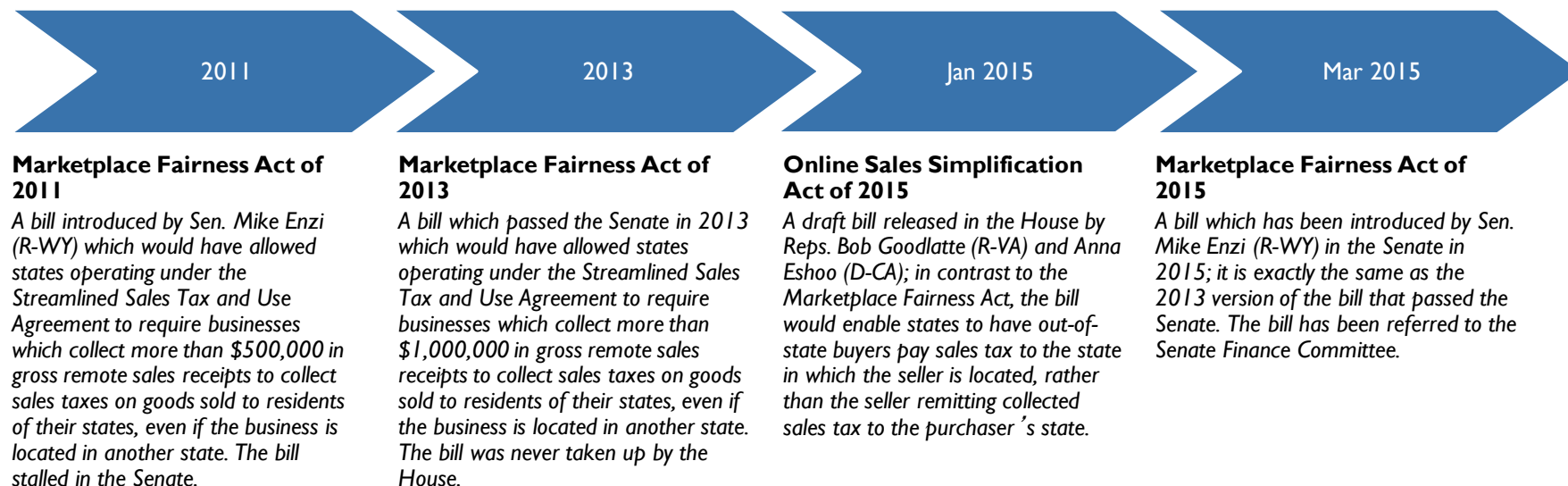
Potential Actions in 114th Congress

- Now that the House and Senate have passed different versions of a NCLB rewrite, a conference committee chaired by Rep. John Kline (R-MN) will begin negotiating a compromise bill post-recess
- Obama has threatened to veto the House bill due to the changes it would make to distribution of funding
- Democrats and the Obama administration want an accountability measure that both bills currently lack, in order to ensure that states will be able to define and help struggling schools and students



Online Sales Tax

Timeline of Key Recent Federal Actions on an Online Sales Tax



Potential Actions in 114th Congress

- House and Senate are divided on how to approach the issue; the Marketplace Fairness Act, which has been the model for online sales tax legislation for the past several sessions, has not been taken up by the House, in part due to concerns over allowing states to tax businesses located elsewhere
- An alternative plan put forward by Reps Bob Goodlatte (R-VA) and Anna Eshoo (D-CA) may help to alleviate those concerns, but there is no clear coalition backing one plan or the other
- Given the pressing nature of several issues with clear deadlines, and no clear consensus on the right policy mechanism, an online sales tax is a low-priority item in 2015



PATRIOT Act

Updated: August 3, 2015

Timeline of Key Recent Federal Actions on the PATRIOT Act

2011

PATRIOT Sunsets Extension Act of 2011

The act was renewed for four years until July 1, 2015, preventing the expiring of three key provisions: roving wiretaps, lone wolf surveillance for terrorism suspects, and the ability to access a wide array of personal records of terrorism suspects (often called the 'library provision').

2013

H. Amdt. 413 to Department of Defense Appropriations Act, 2014

An amendment proposed by Michigan Reps. Justin Amash (R) and John Conyers (D) in the aftermath of the Edward Snowden NSA leaks, the amendment would have restricted governmental authority to mass collect metadata on Americans; it failed in the House on a vote of 217-205.

2014

USA FREEDOM Act of 2014

A bill proposed by Sen. Patrick Leahy which would require the NSA to request specific data from phone companies and limited the amount and distance of connections the NSA could gain from a court. The bill would also have appointed public advocates for privacy rights and civil liberties in federal surveillance courts. The bill failed to achieve cloture in the Senate by a vote of 58-42.

May 2015

USA Freedom Act of 2015; Temporary Extension (S.1357)

The USA FREEDOM Act of 2015 includes a provision that requires the government to identify a specific person or account from a provider rather than allowing for mass collection of data; the measure passed the House but failed a Senate cloture vote. Senate Maj. Leader Mitch McConnell (R-KY) introduced a temporary two-month extension (S.1357) for the PATRIOT Act's expiring provisions, but the vote also failed to achieve cloture.

June 2015

Congress Allows Key Provisions of PATRIOT Act to Expire

With the help of Sen. Rand Paul's (R-KY) parliamentary maneuvers, three key provisions of the PATRIOT act expired on July 1, 2015. On June 2, the Senate passed the USA Freedom Act, which ended government collection of telephone metadata and instead mandated phone companies to store the records.

Potential Actions in 114th Congress

- On June 29, 2015, The Foreign Intelligence Surveillance Court approved a government request to renew the National Security Agency's bulk collection of Americans' phone records for six months, or until November 29, 2015, even though the program lapsed with the expiration of the PATRIOT ACT.
- While the USA Freedom Act calls for the eventual end to the NSA's bulk collection of Americans' information, the legislation contains language that calls for a six-month transition period, giving the NSA time to implement a more limited and targeted surveillance regime.

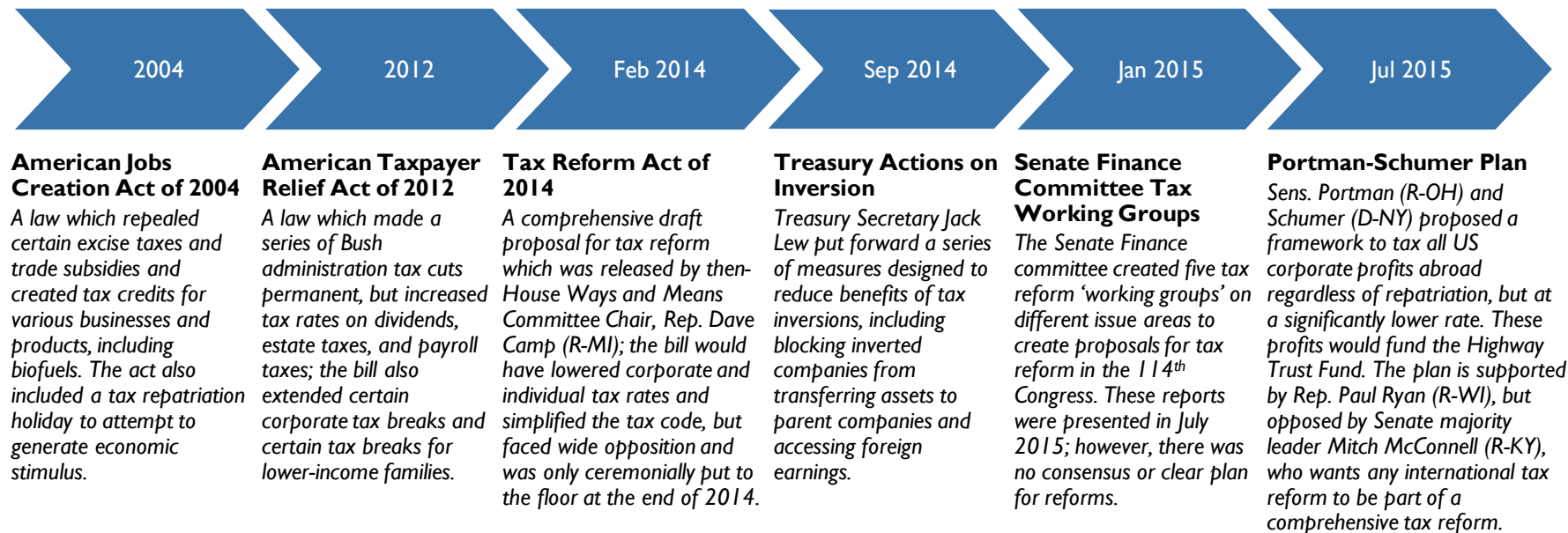
Source: National Journal Research, 2015; Dustin Volz, "Court Revives Defunct NSA Surveillance Program," National Journal, June 30, 2015; Ben Jacobs, Sabrina Siddiqui, and Spencer Ackerman, "USA Freedom Act fails as senators reject bill to scrap NSA bulk collection," The Guardian, May 23, 2015; Colin Lechler, "House votes to reform NSA surveillance with USA Freedom Act," The Verge, May 13, 2015; Ellen Nakashima, "With deadline near, lawmakers introduce bill to end NSA program," Washington Post, April 28, 2015; Todd Spangler, "Michigan congressmen Amash, Conyers introduce bill to restrict government snooping," Detroit Free Press, June 18, 2013; Samantha Stainburn, "US House rejects Amash-Conyers Amendment on NSA surveillance powers," Global Post, July 24, 2013; Lisa Mascaro, "Patriot Act provisions extended just in time," Los Angeles Times, May 27, 2011.



Tax Reform

Updated August 3, 2015

Timeline of Key Recent Federal Actions on Tax Reform



Potential Actions in 114th Congress

- Though there were originally proposals to use FY2016 budgetary reconciliation authority to address comprehensive tax reform, the joint budget resolution tied reconciliation language to repeal of the Affordable Care Act
- Proposals for moderate tax reform tied to renewal and funding of the Highway Trust Fund will make their way through Congress; any other plans for tax reform will likely be low priority until after the 2017 elections
- Comprehensive tax reform is unlikely in a short window; the most likely scenario for reform is likely to be another repatriation holiday or other international tax reforms